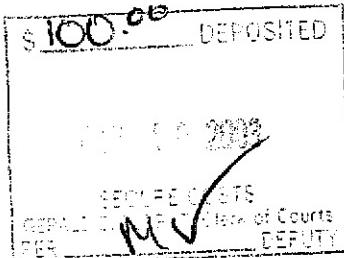


FILED



2003 DEC 16 P 3:37

GERALD E. FUERST  
CLERK OF COURTS  
CUYAHOGA COUNTYIN THE COURT OF COMMON PLEAS,  
CUYAHOGA COUNTY, OHIO

<b>THE ESTATE OF STEVE SWET, DONNA ZELENKA, EXECUTOR, 3447 W. 132nd Street Cleveland, OH 44111</b>  <b>Plaintiff,</b>  <b>vs.</b>  <b>AMERICAN RESEARCH BUREAU, INC., 1111 Santa Monica Blvd., Suite 1000 Los Angeles, California 90025-3333</b>  <b>Defendant.</b>	) CA CV 03 517333 Complaint ) 17075245 ) CV03517333 ) ) JUDGE ) 17093297 ) ) <b><u>COMPLAINT FOR DECLARATORY</u></b> ) <b><u>JUDGMENT</u></b> ) )
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For its complaint against defendant American Research Bureau, Inc. ("ARB"), plaintiff, the Estate of Steve Swet, Donna Zelenka, executor (the "Estate"), states as follows:

**PARTIES**

1. Mr. Steve Swet was an individual residing at 3107 Denison Avenue, Apartment 205, Cleveland, Ohio 44109. On or about June 25, 2003, Mr. Swet died. Mr. Swet's personal estate is presently being administered by Ms. Donna Zelenka, executor, who resides at 3447 West 132<sup>nd</sup> Street, Cleveland, Ohio 44111. This action is brought by Ms. Donna Zelenka, as executor, on behalf of Mr. Swet's estate.

Exhibit  
A

2. Upon information and belief, ARB is a corporation organized under the laws of the State of California with its principal place of business at 2386 East Heritage Way, Salt Lake City, Utah 84109-1897. ARB is a corporation that specializes in locating the heirs of decedents.

**JURISDICTION**

3. This Court has personal jurisdiction over ARB pursuant to Civ. R. 4.3 and R.C. § 2307.382 by reason of the fact that many of the acts or alleged acts giving rise to this dispute in Ohio, and ARB otherwise conducts business in the State of Ohio. Venue is proper in Cuyahoga County, Ohio pursuant to Civ. R. 3(B)(7) because Mr. Swet was a legal resident of Cuyahoga County, Ohio and his estate is being administered in Cuyahoga County, Ohio.

4. Under Ohio's choice-of-law principles, this case is governed by the law of the State of Ohio because Ohio has the most significant relationship to the occurrences, transactions, and parties involved in this dispute.

**ALLEGATIONS**

5. On or about May 5, 2002, Mr. John Carson died intestate. Mr. Carson's estate is presently being administered by Mr. Carson's niece, Karen A. Swift, personal representative, in the case styled *Estate of John Carson*, King County, Washington State, Case No. 02-4-04022-2 SEA. Mr. Carson's estate is valued at approximately \$675,000.

6. Mr. Swet was Mr. Carson's brother by consanguinity.

7. Ms. Mary Zelenka was Mr. Carson's sister by consanguinity. Ms. Mary Zelenka is presently a resident of Ohio.

8. Upon information and belief, in or about November 2002, after having reviewed the petition in the *Estate of John Carson*, ARB conducted an independent genealogical analysis of Mr. Carson's heirs and determined that Mr. Swet was Mr. Carson's brother by consanguinity.

9. ARB claims that on or about November 26, 2002, Mr. Swet executed an Agreement and Assignment in the State of Ohio, which memorializes the alleged arrangement between ARB and Mr. Swet (the "Alleged Assignment") and that this Assignment was delivered on or about December 3, 2002. (A copy of the Alleged Assignment is attached as Exhibit A.)

10. On February 25, 2003, Mr. Swet wrote a letter to Ms. Swift, his niece and the personal representative of Mr. Carson's estate, stating, among other things, that he never executed the Alleged Assignment that purportedly assigned one-third (1/3) of his interest in Mr. Carson's estate to ARB. (A copy of Mr. Swet's February 25, 2003, letter is attached as Exhibit B.)

11. On February 26, 2003, counsel for ARB wrote a letter to Ms. Swift, alleging that ARB had proven that Mr. Swet was Mr. Carson's brother by consanguinity, and that pursuant to Washington law, Ms. Swift must distribute Mr. Carson's estate in equal shares to Ms. Mary Zelenka and Mr. Swet. (A copy of the February 26, 2003, letter is attached as Exhibit C.)

12. ARB has claimed and is claiming a right to one-third (1/3) of Mr. Swet's interest in Mr. Carson's estate under the terms of the Alleged Assignment.

**COUNT ONE**  
***(Declaratory Judgment R.C. § 2721.12)***

13. Plaintiff incorporates herein the preceding paragraphs.

14. This action presents a real controversy with justiciable issues between the Plaintiff and ARB.

15. A declaration by this Court will terminate this controversy.

16. All persons with any claim or interest that would be affected by such a declaration have been made parties to this action.

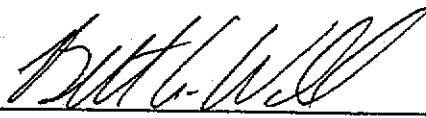
17. The Estate seeks a declaration by this Court pursuant to R.C. § 2721.12 as to the parties' respective rights and obligations under the Alleged Assignment. Specifically, the Estate seeks a declaration that ARB is not entitled to the compensation that it seeks pursuant to the Alleged Assignment because:

- (a) contingency fee agreements such as the Alleged Assignment between probate research organizations such as ARB and potential heirs such as Mr. Swet are unenforceable as a matter of law in Ohio pursuant to the common law doctrines of champerty and maintenance; and/or
- (b) to the extent ARB performed the work described in the Assignment, ARB engaged in the unauthorized practice of law; and/or
- (c) ARB engaged in unlawful competition with the duly appointed personal representative of Mr. Carson's estate; and/or
- (d) ARB's attempt to recover one-third of Mr. Swet's interest in Mr. Carson's estate is unconscionable and otherwise against Ohio's public policy; and/or
- (e) the Alleged Assignment fails for lack of consideration because Mr. Swet knew of his potential interest in Mr. Carson's estate before the Alleged Assignment was executed and delivered to ARB; and/or
- (f) ARB is not qualified to conduct business in Ohio.

WHEREFORE, Charter One, prays for judgment as follows:

- A. On COUNT ONE, for a declaratory judgment that ARB is not entitled to compensation;
- B. For interest, costs, attorneys' fees, and such other relief as this Court deems appropriate.

Respectfully submitted,



Christopher J. Swift (0025763)  
Brett A. Wall (0070277)  
**BAKER & HOSTETLER LLP**  
3200 National City Center  
1900 East Ninth Street  
Cleveland, OH 44114-3485  
(216) 621-0200

Attorneys for the Estate

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## AGREEMENT AND ASSIGNMENT

Estate of \_\_\_\_\_, deceased

In consideration of AMERICAN RESEARCH BUREAU (ARB) having revealed to me the fact that there are assets which may be recovered, as well as in consideration of the time, effort and expense in investigating and endeavoring to procure proof of my relationship and entitlement therein, I hereby assign to ARB one-third of any interest that I may have in said assets, or to which I may be entitled as a result of death of the decedent.

It is agreed that the share assigned to ARB is to cover all expenses incurred by ARB and I shall not be liable to ARB for expenses of any kind.

It is agreed that in the event no recovery can be effected, I will be under no financial obligation to ARB by virtue of having signed this agreement.

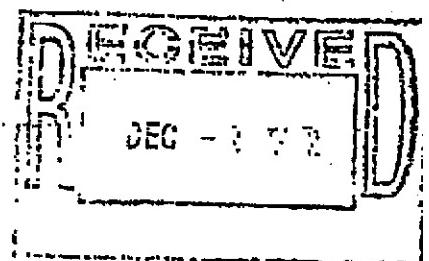
It is agreed that ARB will forward to me a written report including the name of decedent, date of death, and estimated value of the assets. I authorize ARB to include on this agreement, the name of the decedent as indicated in that report.

All of the above shall be binding upon my executors, administrator, heirs and assigns.

DATE 11-26-2002

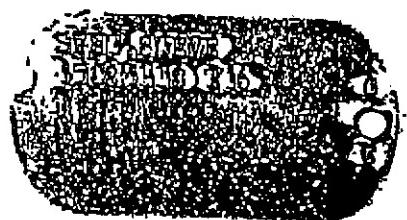
X Steve Swet

Mr. Steve Swet  
3107 Denison Avenue  
Apartment 205  
Cleveland, OH 44109  
Telephone \_\_\_\_\_



AMERICAN RESEARCH BUREAU  
800-628-7221

2386 East Heritage Way  
Salt Lake City, UT 84109-1897



2/25/03

neice

Dear Karen

American Research sent me a form to fill out. Proving that I am John Carsons Brother I sent them back a certificate of Baptism from St Peter & Paul Ukrainian church with my mothers name and fathers name and army dog tags from World war II proving John is my brother it had our name, Social Security number and blood type on it that was the only letter I signed I never authorised them to take over the estates of Johns.

Karen take care of your cold we have been having nasty weather drink a lot of tea and orange juice.

Tell dave, Mathew, Danny, nicole I said Hi You have a beautiful family.

I tried to call you on a pay phone I couldn't get through we will have to do everything by mail

I need your help Steve Sweet

*Law Office***KARR · TUTTLE · CAMPBELL***A Professional Service Corporation*

1201 Third Avenue, Suite 2900, Seattle, Washington 98101-3026  
Telephone (206) 223-1311, Facsimile (206) 622-7100

Portland Office  
1105 Standard Plaza, 1100 S.W. Sixth Avenue, Portland, Oregon 97204-1056  
Telephone (503) 248-1330, Facsimile (503) 222-4420

Please reply to Seattle Office

William J. Cruzen  
(206) 224-8002

February 26, 2003

Karen A. Swift  
c/o James A. Flaggert  
Davis Wright Tremaine  
2600 Century Square  
1501 4<sup>th</sup> Ave.  
Seattle, WA 98101

James A. Flaggert  
Davis Wright Tremaine  
2600 Century Square  
1501 4<sup>th</sup> Ave.  
Seattle, WA 98101

Re: Estate of John Carson  
King County Cause No. 02-4-04022-2 SEA

Dear Ms. Swift and Mr. Flaggert:

Enclosed please find an AGREEMENT AND ASSIGNMENT, signed by Steve Swet, QUESTIONNAIRE-ESTATE OF JOHN CARSON, IDENTIFICATION "DOG TAGS" FROM THE U. S. MILITARY, the originals of which have been filed in the above probate proceeding. Our client, American Research Bureau, located Steve Swet, brother of the decedent, in November 2002. Mr. Swet assigned a portion of his intestate share to American Research Bureau in consideration of American Research Bureau having located him as an heir and in providing evidentiary documentation of his intestate heirship. At that time Mr. Swet provided documentation of his baptism and military dog tags to substantiate his personage.

It is noted on the Petition that Mary Zelenka, decedent's sister, is alleged to be the sole heir of the decedent. Of course this allegation is inaccurate as the decedent's brother, Steve Swet, also survived the decedent and survives to date. Pursuant to RCW 11.04.015 (2) (c), the estate of the decedent passes equally to Ms. Zelenka and Mr. Swet.

Department of Revenue

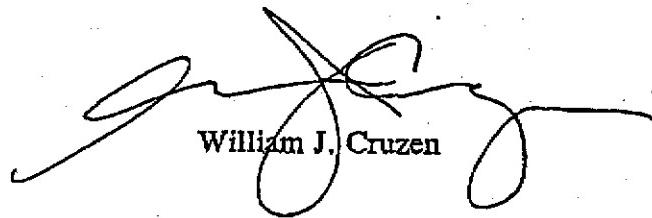
February 25, 2003

Page 2

Pursuant to RCW 11.44.015 (2), please provide a complete inventory and appraisement of the assets of the estate, probate and non-probate. I would also expect notice of all matters specified in RCW 11.28.238.

If you have any questions, please contact me.

Very truly yours,



The image shows a handwritten signature in black ink, which appears to be "William J. Cruzen". The signature is fluid and cursive, with a large, sweeping loop on the left side.

William J. Cruzen

enclosures